APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,785	12/30/2003	Aleksander Wysocki	LHUD-03601-UUS	8726

33794   7590   09/19/2008
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ART UNIT	PAPER NUMBER
2623	

NOTIFICATION DATE	DELIVERY MODE
09/19/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USPTORECEIPT@GMAIL.COM
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Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *6/20/2008*.

2a)☒ This action is **FINAL.**   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-10, 12 - 15, 17 - 26* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-10, 12 - 15, 17 - 26* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

This office action is in response to applicant's response filed on June

20th 2008.

Status of Claims

Claims 1- 10 have been amended.

Claims 1 – 26 are pending in the Application.

Claims 17 - 26 are new added claims.

Claims 11 – 16 are cancelled.

Response to Arguments

Applicant's arguments have been considered but are moot in view of

the new ground(s) of rejection.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35

U.S.C. 102 that form the basis for the rejections under this section made in

this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public
use or on sale in this country, more than one year prior to the date of application for patent in the United
States.

Claims 1, 2, 9 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Plotnick, Michael A.; Plotnick, US patent application No: US 20020144262 (Plotnick hereinafter) A1.

Regarding claim 1, Plotnick teaches:

a receiving device for displaying an advertisement during a television program comprising:

a signal receiving block for receiving a digital television signal stream comprising a primary channel signal, an advertisements channel signal and a control channel – (see include, but not limited to – Fig. 10 – a receiver for receiving television programs, advertisements and control data – items 1000, 1004 and 1020; [0154], Fig. 3).

a mass storage block for recording the primary channel signal and playback of the primary channel signal (Fig. 3/items 336; [0109], [0093] line 2-3 –"the programming is recorded for future playback); and

a processor block linked to the signal receiving block and the mass storage block, the processor block comprising (Fig. 3/320):

a signal processing block for decoding and decompressing the primary channel signal and controlling a data stream transfer of the advertisements channel signal and the control channel signal (signal

processor connected to the decoder 328 and controls data coming

from the control channel and advertisements [0109], [0130], [0134],

Fig. 10 and [0154]; Fig. 6 item 604 and [0135] line 1-4 –"604 provides

the functionality for decoding cue messages. Cue messages are

embedded in network video feeds. They indicate the presence of

advertisement opportunities ("avails") for the insertion of

advertisements"),

a mass storage controller for controlling data stream transfer

between the processor block and the mass storage block ([0109] line

6-8 – "The disk drive 336 is connected to the write buffer 310,

processor 320, and a read buffer 332 through a system bus 334. The

read buffer 332 buffers video to accommodate disk access" See Fig.

3/336, 334, 320),

a marker analysis block for analyzing markers broadcasted on

a control channel (Fig. 3/ item 308; [0107] line 11 – 14 – "A data

tagging unit 308 adds metadata descriptors to video to be recorded.

The metadata is used by the PVR to identify and characterize

programs. A write buffer 310 buffers video to accommodate disk

access.") included in the control channel signal and sending

commands related to the playback of the primary channel signal or

recording of the primary channel signal or playback of advertisement

channel signal to the signal processing block (The MPEG

demultiplexer 306 may contain a transport stream demultiplexer,

Program Identifier (PID) filters – [0107], Fig. 3; Fig. 10/ 1006 – control

data; [0107] line 11 – 14) *and sending commands to the mass*

storage block related to playback and recording of the primary

channel signal (See Fig. 3/308, 310 334, 336 and 320 this is the way

that the control process is performed);

an Audio/Video block linked to the processor block and generating

signal in format acceptable to a television set ([0109] line 9-11 – "An

audio/video decoder 328 decodes digital video and audio, examples of

which are MPEG video and MPEG/AC-3 audio").

Regarding claim 2, Plotnick teaches:

The receiving device according to claim 1, wherein television

programs are transmitted on primary channels ([0157] line 1 – "A

downstream data feed 1020 delivers television program/content" see Fig.

10/1020)*, advertisements are transmitted on a channel with advertising*

units ([0154] line 5-6 – "Ads 1002 are received by the STB PVR from a

downstream ad feed 1000" see Fig. 10/1000, 1002) *and a signal controlling*

quantity of displayed advertisements is transmitted on a control channel

([0169] line 8-11 – "ad download instructions 1156 are transmitted to the ad

server 716. The ad server 716 determines the availability of the ads (ad

availability information 1158) identified in the download instructions 1156.

The ad server 716 transmits available ads and ad metadata to set-top

boxes" Instruction 1156 contains control signal of advertisement availability;

[0107]).

   Regarding claim 9, Plotnick teaches:

   The receiving device according to claim 1, wherein the mass storage

block is capable of recording the advertisements channel signal and

playback of the advertisements channel signal (Recording device Fig.

13A/1250 is capable for recording advertisement channel and after that to

playback this signal – [0181]).

   Regarding claim 10, Plotnick teaches:

   A method for displaying an advertisement during television program,

the method comprising:

   receiving an advertisement via an advertisements channel (Fig.

10/1000; ;

receiving advertisements control data via a control channel;

receiving a television program uninterrupted by advertisements

([0157] line 1 – "A downstream data feed 1020 delivers television

program/content" see Fig. 10/1020; Fig. 1);

displaying the television program (Fig. 3 – the signal from 324 and

326 goes to a display for displaying;

processing the control data ([0182], Fig. 13A-B/1310 – control data –

processing rules):

detecting whether an advertisement is to be displayed in the

television program and when the advertisement is to be displayed in the

television program (The PVR can substitute ads during live programming

(play or recording of) or when pre-recorded programming is being played

back; Another advertising opportunity on the PVR is the display of ads

when channel changes [0128], [0156]; The PVR can also report back

viewing statistics and provide the advertiser information with respect to the

effectiveness of the advertising – [0127]) ,

stopping displaying of the television program (channel changing

will cause stopping displaying of the television program – [0128],

Another advertising opportunity on the PVR is the display of ads

when channel changes - [0128]).

starting recording of the television program in a memory (The

PVR also includes functions that give a viewer the ability to

manipulate live television programs by recording them simultaneously

as they are being watched – [0100]),

displaying the advertisements based on the control data

(Control data related to ads (ad metadata) 1006 is received by the

STB PVR from a downstream control feed 1004. The control data

1006 includes descriptions of the ad content, target audience,

encoding attributes, delivery instructions, and contract limitations

[0154]; The set-top box can supplement this control data by adding

presentation history and user interaction data);

detecting whether an advertisement reproduction is to be stopped

and when an reproduction is to be stopped (A tag extraction system 330

extracts metadata descriptors from recorded video – [0109]),

stopping the displaying of the advertisement (viewer interaction

with the remote control can cause stopping displaying of the

advertisement - Fig. 3, [0091]);

starting reproduction of the television program from the moment

of starting recording (The PVR can substitute ads during live

programming (play or recording of) or *when pre-recorded*

programming is being played back – [0128]).

Claims 5, 6 and 8 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Plotnick.

Regarding claim 5, which recites, "advertisements are formed into

advertising units has a code defining the products' main segment, a sub-

segment code defining in detail category of the product in a given segment,

a code of the manufacturer of the product, and an advertisement code

identifying a given manufacturer's advertisement from a specified

segment". Plotnick does not explicitly disclose the code is structured, but

does suggest that the management system (0146] line 4-7 – "gives

advertisers the ability to describe their advertisements in terms of target

market demographics, required ad bandwidth, ad duration, and other ad

specific parameters" and the management system matches the ads to the

advertising opportunities that occur in the package of programming either

delivered to subscribers in real time or stored on the subscriber's PVR hard

disk drive. Also the management system tracks avails including duration and

bandwidth of the availability, and uses a number of algorithms to determine

if the ad can be placed in the availability. The management system

includes market segmentation, geodemographic database management,

viewing statistics collection, profile aggregation, ad server content and

distribution management, content metadata management, STB software

management, interface to traffic and billing systems, and support of the ad

sales process. It is obvious to one skilled in the art that STB software has a

code for recognition these advertisement' features.

Regarding claim 6, which recites, "a list of advertisements, which

are to be played during an advertisement break, is broadcasted together

with the marker of the advertisement R". Plotnick does not explicitly

disclose that the advertisement is broadcasted together with the marker,

but does suggest that ad queue has a pointer that points the location of the

ads that are to be inserted ([0195] line 1-10 – "when the ad queue 1420

identifies the ad 1410 as the next ad to be inserted) or at the time of

insertion"; Fig. 14 A-B). It is obvious to one skilled in the art that the

existing options for ads inserting in Plotnick application benefits

broadcasting ads with the marker of the advertisement.

Regarding claim 8, which recites, "at choosing the advertising unit to

be displayed, it is checked if it is not a unit competitive to a previously

displayed unit" Plotnick does not explicitly disclose it, but does suggest that

that the PVR determines which subscriber is viewing program with

advertisements and display the appropriate alternative ad and also the

PVR determines which alternative advertisement to display based on

individual subscriber. The alternative version of the advertisement (trick

play advertisement) may be a marketing message that is version of the

actual advertisement. It is obvious to one skilled in the art that choosing the

advertising unit to be displayed is done in many different ways as Plotnick

teaches.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the

basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 3, 17 - 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Plotnick as applied to claim10 above, and further in view of Takatori, Masahiro US 20040021793 A1 (Takatori hereinafter) .

Regarding claim 3, Plotnick teaches:

The receiving device according to claim 2, wherein the signal controlling quantity of displayed advertisements includes program markers P controlling record of the primary channel signal and advertisement markers R controlling playback of a recorded signal or of an advertisement (ads/themes/products which are of interested to the household can be easily identified by monitoring which ads they select and how many times they select them – [0130], Plotnick teaches that a remote control 311 works in conjunction with a remote control demodulator 312 to allow remote control and programming of the PVR unit. A processor 320 connected to the remote control and analyzes all user action such as stop and channel changes [0107 – [0108]. Plotnick is not specific about detection a programming content marker. However, Takatori discloses the bookmark data storing section – Fig. 12 - bookmark data including link destination information for accessing detailed information about the program – [0068]. Takatori discloses the bookmark data storing section – Fig. 12

(bookmark data including link destination information for accessing detailed information about advertisement - [0068]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Plotnick with the teaching of detecting a program and advertisement tags as further taught in Takatori to meet all limitation in claim 19 in order to increase the profit of advertisement companies.

Regarding claim 17:

The method according to claim 10, wherein the step of processing the control data comprises a step of detecting a programming content marker. Plotnick teaches that a remote control 311 works in conjunction with a remote control demodulator 312 to allow remote control and programming of the PVR unit. A processor 320 connected to the remote control and analyzes all user action such as stop and channel changes [0107 – [0108]. Plotnick is not specific about detection a programming content marker. However, Takatori discloses the bookmark data storing section – Fig. 12 - bookmark data including link destination information for accessing detailed information about the program – [0068].

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Plotnick with the teaching of detecting a programming content tag as further taught in Takatori to meet all limitation in claim 17 in order to increase the profit of advertisement companies.

Regarding claim 18:

The method according to claim 10, wherein the step of processing the control data comprises a step of detecting an intermission marker. Plotnick discloses intermission marker (intermission marker – the period of time when there is a break between a program displaying - the invention is in no way intended to be limited to this exemplary embodiment. As one skilled in the art would recognize the advertisements may be any length (i.e., 15, 30, 45, 60 seconds), there may be any number of advertisements (i.e., 3, 4, 5 advertisements during a commercial break), the advertisements may be inserted at any point in the programming (i.e., pre-pended or post-pended) – [0091])

Regarding claim 19:

The method according to claim 10, wherein the step of processing the control data comprises a step of detecting an advertisement marker.

Plotnick teaches that a remote control 311 works in conjunction with a

remote control demodulator 312 to allow remote control and programming

of the PVR unit. A processor 320 connected to the remote control and

analyzes all user action such as stop and channel changes [0107 – [0108].

Plotnick is not specific about detection a programming content marker.

However, Takatori discloses the bookmark data storing section – Fig. 12

(bookmark data including link destination information for accessing detailed

information about advertisement - [0068]).

Therefore, it would have been obvious to one of ordinary skill in the

art at the time the invention was made to modify Plotnick with the teaching

of detecting a advertisement tag as further taught in Takatori to meet all

limitation in claim 19 in order to increase the profit of advertisement

companies.

Regarding claim 20:

The method according to claim 10, wherein the step of detecting

whether an advertisement is to be displayed comprises a step of evaluating

the advertisement marker ([0146] - ad duration, and other ad specific

parameters).

Regarding claim 21:

The method according to claim 10, wherein the step of detecting whether an advertisement reproduction is to be stopped comprises a step of evaluating the advertisement marker (When reproducing of advertisements is stopped, database access module 824 that manages all access to the set-top database will detect it – Fig. 8, [0150]).

Regarding claim 22:

The method according to claim 10, wherein the step of recording of the television program in a memory records data on a hard disk (including programs received in real-time or being played from the set-top box's hard disk – [0150]).

Regarding claim 23:

The method according to claim 10, wherein the step of displaying the advertisements comprises steps of

obtaining user preferences (Fig. 10/1042);

selecting advertisements taking into account the user preferences (The filtering determines whether an ad received from the downstream ad feed is appropriate for the household by comparing the target audience specified in the ad metadata with the viewer profiles from a profile database – [0156]); and

retrieving the selected advertisements from a memory (the ads are stored on the recording medium and retrieved when the user requests the ad; Stored ads and infomercials can be organized and presented by subject matter, and can be targeted to a household based on the preferences [0130]).

Regarding claim 24:

A receiver for displaying an advertisement during a television program, the receiver operating according to the method of claim 10, the receiver comprising:

a signal processing block (111) for receiving data of a television signal channel, a control channel comprising control markers and an advertisements signal channel;

a mass storage block for storing data of the television signal channel;

a mass storage controller (114) for controlling transfer of data of the television signal channel to and from the mass storage block; a marker analysis block (113), which analyzes the markers broadcasted via the control channel, and, based on them, sends commands, related to the playback of the television signal or recording of the television signal or

playback of the advertisements signal, to the signal processing block (111)

and to the mass storage controller (114) – see rejection in claim 1 above).

Regarding claim 25:

The receiver according to claim 24, wherein the mass storage block

is capable of, under control of the mass storage controller, recording data

of the control channel and reading of data of the control channel (The PVR

also includes functions that give a viewer the ability to manipulate live

television programs by recording them simultaneously as they are being

watched [0100]).

Regarding claim 26:

The receiver according to claim 24, wherein the mass storage block

is capable of, under control of the mass storage controller, recording data

of the advertisements signal channel and playback of data of the

advertisement channel signal (the recording and playback of

advertisements utilizing a PVR – [0095]).

Claims 3, 4 and 7 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Plotnick as applied to claim 2 above, and further

in view of Fujita, US 20050201721 A1;

Regarding claim 3, which recites, "a signal controlling quantity of displayed advertisements includes program markers P controlling record of a signal from a primary channel and advertisement markers R controlling playback of a recorded signal or of an advertisement". Plotnick does not explicitly disclose it, but Plotnick discloses [0163] line 1-4 – "When an ad insertion opportunity arises, the set-top box determines

whether the current session profile matches any of the historical profiles in the profile database. If a match exists, the match will be used for selecting an appropriate advertisement"). Nevertheless, Fujita teaches that the controller ([0153] line 7-10 - "the programs and the CMs are all recorded on the magnetic tape, and at the time of reproduction the HDD unit buffers those data, and instantly removes (cut off, reproduces for quick seeing, fast forwards) the CMs on the basis of the CM information decided by the (see Fig.12) method").

Regarding claim 4, which recites,"the recorded signal is stopped, and the signal from the primary channel is played, when an interval between recording and playback of the recorded signal is shorter than a specified time". Plotnick does not explicitly disclose it, but Plotnick discloses [0128] line 5-6 "The PVR can substitute ads during live

programming (play or recording of) or when pre-recorded programming is

being played back." Nevertheless, Fujita teaches that ([0166] line 4-6 –

"The time table describes the time-basis relation between the program and

CM recorded on the magnetic tape 511."and Fig. 6 where CM stored in the

CM history memory 83 and 81 detects the start point and end point of CM,

completes the recording of the CM intervals described on the time table

and predetermined periods (Tb) before and after the CM periods.)

Therefore, taking the combined teaching of Plotnick and Fujita as a

whole, one skilled in the art would have found it obvious to modify Plotnick

by utilizing the methodology as taught in Fujita where the recorded signal is

stopped the signal of primary channel is controlled by clock.

Regarding claim 7, which recites, "a currently played advertisement

is played until the end, and after it is finished, playback of a recorded

program is continued". Plotnick does not explicitly disclose it, but Plotnick

discloses advertisements and an

ad queue are stored on the PVR and the video stream from the video

server includes available spot (either blank avails or avails with default ads

available for replacement with targeted ads). Nevertheless, Fujita teaches

that after the currently ad is played Fig. 6 /814, [0161] line – "The CM

interval detector 814 monitors the broadcast time interval (for example, an

interval of 15 seconds) of the signal indicating the start point or

end point of CM produced from the CM discriminator, and decides that the

output signal is the signal of having detected the start point or end point of

CM when the time interval of the signal satisfies the broadcast time interval

and a sequence of a plurality of those intervals.)

Therefore, taking the combined teaching of Plotnick and Fujita as a

whole, one skilled in the art would have found it obvious to modify Plotnick

by utilizing the methodology as taught in Fujita where the presenting the

sequence of advertisements and playback program was shown with many

ways.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection

presented in this Office action. Accordingly, **THIS ACTION IS MADE

FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of

time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to

expire THREE MONTHS from the mailing date of this action. In the event a

first reply is filed within TWO MONTHS of the mailing date of this final

action and the advisory action is not mailed until after the end of the

THREE-MONTH shortened statutory period, then the shortened statutory

period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the

mailing date of the advisory action. In no event, however, will the statutory

period for reply expire later than SIX MONTHS from the date of this final

action.

Contact

Any inquiry concerning this communication or earlier communications

from the examiner should be directed to Jivka Rabovianski whose

telephone number is (571) 270-1845. The examiner can normally be

reached on M-F 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the

examiner's supervisor, SRIVASTAVA VIVEK can be reached on (571) 272-

7304. Customer Service can be reached at (571) 272-2600. The fax

number for the organization where this application or proceeding is

assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Jivka Rabovianski/   SRIVASTAVA VIVEK

September 4, 2008   /SPE/

/Vivek Srivastava/

Supervisory Patent Examiner, Art Unit 2623